

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Government Appeal No. 196 of 2001
(Old No. 2814/1998)

The State of U.P. Appellant

Vs.

1. M.K. Mittal (Owner)
2. Subhash Chandra (Manager)
M/s Bharat Heavy Electricals Ltd. (Heep)
Ranipur, Haridwar Respondents.

Mr. Mamta Bisht, learned A.G.A.

Mr. Rakesh Thapliyal, learned counsel for the respondents.

Hon'ble Prafulla C. Pant, J.

Heard Ms. Mamta Bisht, learned A.G.A. and Shri Rakesh Thapliyal, learned counsel for the respondents.

2. This appeal, is preferred under Section 378 (3) of Cr.P.C., is directed against the judgment and order dated 20.07.1998, passed by Chief Judicial Magistrate, Haridwar, whereby respondents M.K. Mittal and Subhash Chandra, were acquitted of the charge of offence punishable under Section 92 of Factories Act, 1948.

3. Brief facts of the case are that factory run by Bharat Heavy Electricals Ltd., Haridwar is recovered under the Factories Act, 1948. On 07.10.1994, a labour named Virendra Singh, got injured in an accident in the factory and died. P.W. 1 Atul Kumar, Assistant Director Factory, made inspection on 10.10.1994 of the factory and states that the security arrangement of the contract labours were not proper. However, it is not

made clear by the said officer what was lacking in the security of the employees. Merely for the reason that one of the contract labour died in an accident inside the factory by itself does not attract the penal clause of Factories Act unless it is found that the persons responsible for running the factory were negligent under said Act. M.K. Mittal, who has been prosecuted, has taken stand in the defence that he was not the Director of the factory on the date when the accident took place. So is the stand taken by Subhash Chandra, the another accused. Neither the prosecution has proved that they (accused/respondents) were the actual incharge of the factory on the date of the accident nor the prosecution has proved what was the negligence committed by the accused, which resulted in the injury of the contract labour. Anyone for merely being named by the Assistant Director Factory in the criminal complaint, made by him and merely by showing that the security arrangements of the labours were not proper, cannot be convicted of the offence punishable under Section 92 of Factories Act, 1948. Therefore, the impugned order, passed by the trial court, needs no interference.

4. For the reasons as discussed above, this appeal against the acquittal has no force. The same is dismissed.

(Prafulla C. Pant, J.)

Dt: 22.06.2007

Sweta